

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 104 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

VALKUBHAI J GOVALIYA

Versus

UMARBHAI NOORMAHMODBHAI

Appearance:

MR AM DAGLI for Petitioner

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/01/2000

ORAL JUDGEMENT

#. Computer report shows that notice of the Respondent No.2 is not served so far. Though the respondent No.2 should have been served but I do not consider it to be necessary in this case to issue fresh notice to the respondent No.2 as this matter is squarely covered by the

decision of the apex court in the case of Dhannalal Vs. D.P. Vijayvargiya and Ors. reported in 1996 ACJ 1013.

#. Heard learned counsel for the petitioner.

#. On 18/9/89 in a vehicle accident the vehicle, matador belonging to the petitioner-claimant has completely been lost and broken and the cleaner of the matador died on the spot. The claimant petitioner on 9/11/90 filed claim application before Motor Accident Claims Tribunal, Surendranagar. As this claim application was not filed within prescribed period of limitation, the claimant filed an application for condonation of delay which was occurred in filing of the same.

#. Under the impugned order, the application filed by the claimant-petitioner for condonation of delay which was there in filing of the main claim application, was came to be rejected hence this civil revision application.

#. This matter is squarely covered by the decision of apex court in the case of Dhannalal Vs. D.P. Vijayvargiya and Ors. reported in 1996 ACJ 1013 (supra). The claimant-petitioner in the facts of this case is entitled to the benefit of amendment of sub-section (3) of section 166 of the M.V. Act, 1988. In case, the order of learned tribunal is allowed to stand, it will be not only occasion a failure of justice to the claimant-petitioner, but it will cause a serious prejudice to him.

#. In the result, this revision application succeeds and the same is allowed. The order 5/8/91 of the Motor Accidents Claims Tribunal, Surendranagar passed in Claim Misc. Application No. 443/90 is quashed and set aside. Delay which is there in filing of the Motor Accident Claims Petition is condoned. The claim application is of the year 1990 the learned tribunal is directed to decide the matter finally within 6 months from the date of the receipt of the writ of the order or certified copy thereof whichever is earlier. The rule is made absolute with no order as to costs. Liberty is granted to the respondent No.2 for revival of the Civil Revision Application in case of any difficult.

(S.K.Keshote, J.)

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